

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions

FROM: Micah G. Vincent, Commissioner *MGV*

RE: UPDATE to March 25, 2013 Memorandum Entitled, "Emergency 911 & Public Safety Access Point ("PSAP") Funding"

DATE: June 6, 2013

On March 25, 2013, the Department of Local Government Finance ("Department") issued a memorandum entitled "Emergency 911 & Public Safety Access Point ('PSAP') Funding," which addressed IC 36-1-7-16 and the process by which political subdivisions enter into an agreement with one or more other political subdivisions under IC 36-1-7 to transfer, combine, or share powers, duties, functions, or resources that results in a savings or reduction in expenses. On May 11, 2013, Governor Mike Pence signed into law Senate Enrolled Act 459 ("SEA 459"), which introduced changes affecting IC 36-1-7-16. This memorandum addresses these changes, which take effect July 1, 2013. This memorandum supersedes and replaces the March 25, 2013 memorandum cited above. For more general information about amendments to the statutes governing inter-local and intra-unit combinations and reorganizations of functions, please see the memorandum entitled "Transfers, Combinations, and Consolidations of Powers, Duties, Functions, or Resources." Please note that this memorandum is intended to be an informative bulletin; it is not a substitute for reading the law.

Section 2 of SEA 459 amends IC 36-1-7-16 so that if:

- (1) a political subdivision enters into an agreement with one or more other political subdivisions under IC 36-1-7 to transfer, combine, or share powers, duties, functions, or resources; and
- (2) the political subdivision realizes through the transfer, combination, or sharing of powers, duties, functions, or resources a:

(A) savings; or

(B) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the transfer, combination, or sharing of powers, duties, functions, or resources had not taken place;

the political subdivision must specify in the agreement described above the amount (if any) of the decrease that the Department must make to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 of the political subdivision to:

- (1) eliminate double taxation by different political subdivisions for services; or
- (2) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

The fiscal body of the political subdivision must determine and certify to the Department the amount of the adjustment (if any) to be made. The amount of the adjustment (if any) to be made must comply with the agreement under which the political subdivision transfers, combines, or shares powers, duties, functions, or resources.

In sum, this statute, as amended, now requires that a political subdivision that enters into an interlocal agreement with one or more other political subdivisions to transfer, combine, or share powers, duties, functions, or resources and that experiences a savings or reduction in expenses as a result must specify in that agreement the amount of the decrease the Department is to make in that political subdivision's budget, rates, and levies to eliminate double or excess taxation. The statute, as amended, no longer provides for a staggered reduction in the political subdivision's maximum levy.

A political subdivision responsible for providing the service that has been transferred to it by other political subdivisions may submit to the Department an Extension of Services excess levy appeal pursuant to IC 6-1.1-18.5-13(a)(1) (Version b) in order to increase its maximum levy to fund the service for which it is now responsible. In reviewing such an appeal, the Department will give special attention to how the political subdivisions' agreement "eliminate[s] double taxation by different political subdivisions for services." An appeal may be denied if the agreement fails to eliminate double taxation or for any other reasons the Department determines warrants denial. For example, if an agreement calls for Town A to pay for 50% of the service while County B (which is providing the service) pays the other 50%, residents in Town A will be doubly taxed for the same service—once by the Town and once by the County. If the County were to submit an Extension of Services appeal, it would likely be denied because of the double taxation problem.

Any political subdivision that must, pursuant to IC 36-1-7-16, certify a maximum levy decrease amount to the Department must do so on or before September 1 of the year preceding the year in which the adjustment is to take effect. The political subdivision must provide the Department's Budget Division with all appropriate ordinances, agreements, and supporting documentation. An Extension of Services excess levy appeal must be submitted to the Department on or before October 21, 2013 to have effect for 2014.

Contact Information

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